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S E C R E T SECTION 01 OF 02 RIYADH 000148

SIPDIS

DEPARTMENT FOR S/GWI DKELLY, DRL JLIEBERMAN AND NEA/ARP
JBERNDT AND JHARRIS

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TAGS: [KDEM](#) [KISL](#) [KJUS](#) [PGOV](#) [PHUM](#) [PINR](#) [PREL](#) [SA](#)

SUBJECT: RIYADH HIGH COURT OVERTURNS AL-JOUF FORCED DIVORCE
OF FATIMA AL-AZZAZ AND MANSOUR AL-TAIMANI

REF: 09 RIYADH 1086

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Classified By: Ambassador James B. Smith for reasons 1.4 (b and d)

¶1. (S) SUMMARY: On January 30, English-language dailies Saudi Gazette and Arab News reported that the newly-established High Court in Riyadh -- a "supreme court" of review which is one of the first fruits of King Abdullah's judicial reform efforts -- had overturned the highly contentious forced divorce verdict issued by the Al-Jouf court on June 20, 2005.

The verdict, which sparked a public debate about the relationship between tribal customs and Shariah Law, ordered the separation of the Saudi couple Mansour Al-Taimani and Fatima Al-Azzaz against their wishes. Local contacts suggested that King Abdullah must have had a hand in pushing the High Court to reach its verdict, and may have selected this high-profile case to set an example. While the decision itself illustrates the potential impact of this new level of judicial review, the debate swirling around the High Court's verdict indicates that the issue of how to distinguish between law, religion, and social custom in Saudi Arabia remains hotly debated. End summary.

¶2. (U) Fatima Al-Azzaz and Mansour Al-Taimani were married in 2003 with the consent of Fatima's father (her legal guardian), as required by Saudi law. When Fatima's father died, her half-brothers filed a suit to dissolve the marriage in the court of first instance in Al-Jouf, arguing that Mansour Al-Taimani was of an inferior tribe and that the marriage was damaging the family's reputation. Fatima refused the divorce, claiming that the half-brothers had brought the suit to gain control of her property. Although the couple was happily married at the time, and Fatima was pregnant with the couple's second child, the Al-Jouf court annulled the marriage and ordered the couple to separate immediately. Fatima refused to return to her family home and live with her brothers, who were now her legal guardians. She moved to a social protection home for divorced women, where she lived "in prison-like conditions" under the guardianship of the Ministry of Social Affairs, according to local press reports.

¶3. (C) On January 30, English-language dailies Saudi Gazette and Arab News reported that the newly-established High Court had overturned the Al-Jouf verdict. No official details regarding the argument that persuaded the High Court to overturn the verdict were reported, as details of judicial opinions and court proceedings are not made public in Saudi Arabia. A representative from the Human Rights Commission told Poloff he was not yet willing to comment on the case as the HRC was not yet clear on its details. Some press reports

speculated that the couple's lawyer argued that under Shariah law, it was not permitted to divorce a couple that was happily married. The Saudi Gazette suggested the High Court had overturned the verdict because the father had given consent to the marriage, and it was therefore legal. Post's contacts have generally welcomed the verdict, although the debate on some blogs has warned against trusting a judiciary that "reversed its judgment in response to pressure from Human Rights organizations." HRC lawyer Ahmed Bin Khaled Al-Sudairi was quoted in the Saudi Gazette saying the High Court's verdict could not be appealed.

¶4. (S) In a February 1 phone conversation with Poloff, Saudi Jeans blogger Ahmed Al-Omran said that the High Court had considered evidence related to Al-Taimani's tribal affiliation in reaching its verdict. He added that this was the first time the newly created High Court was involved in a case of this nature, and that "only King Abdullah had the power to force the Court's hand." He pointed out that the Supreme Judicial Council, which had previously been the last instance of review, had not objected to the verdict of the Al-Jouf court. Al-Omran said the King may have waited for the High Court, which is a key part of his wider judicial reform efforts (reftel A), to be established so that this new court could overturn the highly publicized and controversial decision. Al-Omran said he was "somewhat disappointed" with the fact that the court had considered evidence as to Al-Taimani's tribal affiliation, as the new verdict should have rested "on the rule of law alone" and disregarded tribalism altogether.

¶5. (S) Assistant Professor of Economics at the Institute of Diplomatic Studies, Mohammed Al-Qahtani, echoing these sentiments, said during a telephone interview with Poloff: "Doubtlessly the King, as the supreme judge of the country,

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had a role in influencing the verdict of the High Court."

COMMENT

¶6. (C) The forced divorce case in question had already sparked a debate in Saudi society concerning the role of tribal affiliation in determining matrimonial compatibility, and as to whether would be male guardians had the right to intervene in an already established marriage. Commenting on the forced divorced case when it first reached the papers several years ago in an article titled "I Love the Prison," King Saud University professor Jebreen Al-Jebreen illustrated Al-Azzaz's side of the story, noting that she chose life in prison over life with her guardian half-brothers and subjection to social customs she found highly objectionable. Al Jebreen noted the existence of "backward regions" that confused religion, social customs and cultural heritage, a situation that led to "a lot of suffering" as this confusion went often unrecognized and led to a distorted image of religion.

¶7. (C) COMMENT CONTINUED: The High Court's decision in this high-profile case has focused attention on this new court, its intended role, and the King's judicial reform efforts. The confusion in the local press as to who actually issued the verdict -- the new Supreme Court, or the former Supreme Judicial Council -- indicates the public may not yet fully understand the nature of this new reform. The discussion surrounding the verdict indicates that the SAG is grappling with many issues as it implements judicial reform, chief among them defining the proper relationship between law, religion, and social custom. END COMMENT.

SMITH